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HUMAN RIGHTS COMMITTEE

Sixty-third session

SUMMARY RECORD OF THE 1671st MEETING

Held at the Palais des Nations, Geneva,
on Monday, 13 July 1998, at 10.30 a.m.

Chairperson: Ms. CHANET

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GE.98-16792 (E)

The meeting was called to order at 10.45 a.m.

OPENING OF THE SESSION

1. The CHAIRPERSON declared open the sixty-third session of the Human Rights Committee.

RESIGNATION OF MR. TÜRK

2. The CHAIRPERSON announced that Mr. Türk had resigned from his position as a member of the Committee.

ADOPTION OF THE AGENDA (item 1 of the provisional agenda) (CCPR/C/134 and Corr.1)

3. The CHAIRPERSON, drawing attention to the corrigendum to the provisional agenda (CCPR/C/134/Corr.1), pointed out that, under the revised timetable for consideration of reports of States parties, the Committee was to consider the fourth periodic report of Italy (CCPR/C/103/Add.4) instead of the third periodic report of the Libyan Arab Jamahiriya (CCPR/C/102/Add.1) on Friday, 17 July.

4. The agenda was adopted.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2)

5. The CHAIRPERSON announced that, at the closed meeting to be held that afternoon, she would report on her recent meeting with the High Commissioner for Human Rights. The Committee would also consider matters arising from the denunciation of the Optional Protocol by Trinidad and Tobago and would finalize its preliminary conclusions on the question of reservations to treaties. She drew to the attention of members an unofficial document that had been distributed containing the proposed programme of work for the sixty-third session of the Committee.

6. In reply to a question by Mr. KRETZMER, she said that the time set aside for the consideration of communications would probably be sufficient, as only three cases (two views and one decision on admissibility) had been left over from the New York session. If necessary, the closure of the session could be deferred until the afternoon of Friday, 31 July.

7. The programme of work was approved.

8. Mr. YALDEN, speaking as Chairman/Rapporteur of the pre-sessional working group, said that the working group's members deserved special thanks for the patience and understanding they had shown under rather difficult circumstances. He understood that administrative problems were to be discussed at the closed meeting that afternoon and he would revert to the matter at that stage.

9. The group had met throughout the week preceding the session; Ms. Evatt, Lord Colville, Mr. Pocar, Mr. Prado Vallejo, Mr. Scheinin and himself had been present at all the meetings, Mr. Klein had attended on the Thursday and Friday, and Mr. Bhagwati had joined the group on the Friday. In connection with communications under the Optional Protocol, the group had adopted 13 views and 5 decisions declaring communications inadmissible and had recommended that four communications be declared admissible. A further short meeting of the working group was to be held during the current week to consider one outstanding decision on admissibility.

10. With regard to country reports, the working group had considered the initial reports of Israel (CCPR/C/81/Add.13) and of the former Yugoslav Republic of Macedonia (CCPR/C/74/Add.4), the second periodic report of Algeria (CCPR/C/101/Add.1), the third periodic report of the United Republic of Tanzania (CCPR/C/83/Add.2) and the fourth periodic report of Italy (CCPR/C/103/Add.4). It had also considered materials submitted by numerous intergovernmental and non-governmental organizations (NGOs). No changes had been made to the list of issues to be taken up in connection with the consideration of the fourth periodic report of Ecuador (CCPR/C/84/Add.6), which had already been approved at the New York session.

11. In addition to being briefed by specialized agencies and NGOs, the pre-sessional working group had also considered a large amount of written material and had viewed some video material supplied by one NGO. It had also been briefed by one of the Desk Officers appointed following the restructuring of the Office of the High Commissioner for Human Rights. The Desk Officers responsible for matters relating to each of the reports to be considered at the current session would be at the disposal of the members of the Committee throughout the session.

12. The working group had also been briefed on the Secretary-General's decision to establish a panel of eminent persons to carry out a mission to Algeria. It had discussed a second draft general comment on article 12 prepared by Mr. Klein and had agreed that any suggestions concerning it should be handed in writing to Mr. Klein. Lastly, six members of the group had been received by the High Commissioner for Human Rights.

13. Mr. de ZAYAS (Secretary of the Committee), replying to Mr. PRADO VALLEJO, said that the French and Spanish texts of the various lists of issues had unfortunately been delayed because the translation services were fully occupied by work for the Rome Conference on the Establishment of an International Court of Justice. He hoped that the translations could be distributed in time for the consideration of the respective reports. In reply to points raised by Mr. BUERGENTHAL and Mr. LALLAH, he said that the written materials submitted by NGOs would be distributed to all the members of the Committee.

Draft list of issues to be taken up in connection with the consideration of the initial report of Israel (CCPR/C/81/Add.13)

Paragraphs 1 and 2

14. Paragraphs 1 and 2 were adopted.

Paragraphs 3 to 7

15. Ms. EVATT said that the paragraph numbers appearing in square brackets in paragraphs 3 and 6 referred to the original version of the report of Israel and had been included for greater convenience. She would have no objection to their deletion.

16. Mr. YALDEN agreed that, the paragraph numbers appearing in square brackets throughout the list of issues should be deleted.

17. Ms. MEDINA QUIROGA said that it was very difficult to comment on a list of issues that had only just been distributed.

18. The CHAIRPERSON said that she had received her own copy only three days previously. Her first impression, however, was that the list of issues covered areas of concern suggested by the contents of the report and the material received from NGOs.

19. Mr. ZAKHIA proposed the insertion of a question in paragraph 7 concerning disparities between men and women under religious "personal status" legislation.

20. Ms. EVATT pointed out that paragraph 30 addressed that issue.

21. Paragraphs 3 to 7 were adopted.

Paragraph 8

22. Paragraph 8 was adopted.

Paragraphs 9 to 13

23. The CHAIRPERSON suggested that the words "freedom from" in the five paragraph headings should be amended to read "prohibition of".

24. It was so decided.

25. Ms. EVATT said that the heading of paragraph 9 should contain a reference to article 7 as well as article 6.

26. Paragraphs 9 to 13, as amended, were adopted.

Paragraph 14

27. Paragraph 14 was adopted.

Paragraphs 15 to 17

28. The CHAIRPERSON suggested that the headings of paragraphs 15 to 17 should be amended to read "Right to liberty and security of person".

29. It was so decided.

30. Paragraphs 15 to 17, as amended, were adopted.

Paragraphs 18 and 19

31. Paragraphs 18 and 19 were adopted.

Paragraph 20

32. The CHAIRPERSON suggested that a reference to article 26 should be included in the heading to reflect the question concerning differences in treatment between Jewish and non-Jewish juvenile offenders.

33. It was so decided.

34. Paragraph 20, as amended, was adopted.

Paragraphs 21 to 25

35. The CHAIRPERSON asked why choice of residence was the subject of both paragraph 22 and paragraph 25.

36. Mr. YALDEN said that paragraph 25 related specifically to the issue of the destruction of the family homes of suspected terrorists. He suggested that it should follow immediately after paragraph 22.

37. It was so decided.

38. Mr. ZAKHIA said that homes were destroyed not only because family members were suspected terrorists but also on the grounds that no building permit had been issued. As it was extremely difficult for Arabs to obtain permission to build, the fundamental right to a home was violated in such cases.

39. Ms. EVATT proposed deleting the references to "choice of residence" in the heading and the first question of paragraph 25 and adding a reference to article 17.

40. It was so decided.

41. The CHAIRPERSON suggested that the second question in the paragraph should be incorporated in paragraph 21.

42. It was so decided.

43. Paragraphs 21 to 25, as amended, were adopted.

Paragraphs 26 to 34

44. Paragraphs 26 to 34 were adopted.

45. Ms. EVATT, in reply to a question by the CHAIRPERSON, said she regretted the omission of questions concerning the State party's reservations and its possible accession to the Optional Protocol.

46. Mr. LALLAH said it was the first occasion in his recollection that a report had been received only a few days before Committee members were expected to engage in a constructive dialogue with a State party. To make matters worse, it was available only in the language of submission, so that non-English-speaking members of the Committee were placed at a serious disadvantage and would be hard put to comply with their solemn undertaking to treat all States parties equally. It was an intolerable situation.

47. Mr. YALDEN said that the situation had been equally unacceptable for the working group, which had not received the report in time for its meetings the previous week.

48. Ms. MEDINA QUIROGA said she fully supported Mr. Lallah's statement and felt very uncomfortable about the fact that the Committee was unprepared for the forthcoming exercise.

49. Ms. GAITAN DE POMBO said that, as a non-English-speaker, she had been placed in an extremely awkward position.

50. She supported the proposal for a question regarding reservations.

51. Mr. ANDO supported the view expressed by Mr. Lallah, and endorsed the Chairperson's suggestion that a question on reservations should be added to the list.

52. Mr. ZAKHIA also supported Mr. Lallah's view. Since the report was an initial one, and would thus form the basis of later judgements, it was all the more important that it should be made available in the various languages to facilitate consideration by the Committee.

53. He agreed that a question on reservations should be included, and suggested that a further question on the right of women to transmit Israeli nationality to their children be added.

54. Mr. BHAGWATI agreed that the short time left for members to study both the report itself and the large amount of material made available by NGOs would make it very difficult to put relevant questions to the Israeli delegation. He supported the inclusion of a question on reservations.

55. The CHAIRPERSON said that she associated herself with earlier speakers in deploring the conditions under which the Committee had to work.

56. She suggested that, under the heading of equality and non-discrimination, a further question be added on whether Israeli nationality could be handed down by both men and women.

57. It was so decided.

58. Mr. BUERGENTHAL joined in regretting the late submission of the report, and suggested that consideration of it be postponed.

59. Mr. LALLAH, having stated that he had not intended any criticism of the working group, said that it would be counterproductive to postpone consideration of the report to a subsequent session. The best solution would be simply to defer it until the following week and to take up in the interim another report dealing with a situation more familiar to Committee members.

60. The CHAIRPERSON said that the Committee's schedule for the following week was already overloaded. If the date for consideration of the Israeli report was postponed, it might then be difficult to persuade the delegations of other States parties to change dates to which they had already agreed. She pointed out that the Israeli report had arrived on 9 April 1998 while the Committee had been in New York, and its late distribution was, consequently, the fault not of Israel but of the United Nations.

61. Mr. ANDO urged that, if any postponement was decided on, care should be taken to leave the timetable for consideration of reports of other States parties intact.

62. Mr. YALDEN said that, while he understood Mr. Lallah's concern, any change in the timetable would be bound to create difficulties. For instance, the report of the former Yugoslav Republic of Macedonia was a lengthy document which had arrived late, and that of Algeria was difficult and controversial, to bring consideration of those reports forward would create similar problems.

63. Mr. POCAR said that, although members of the Committee who had not been members of the working group would find it very difficult to absorb the Israeli report by 15 July, changes in the agreed timetable were best avoided. He suggested that the Committee should at least embark on its consideration of that report on the date set and then, if it found itself unable to deal with certain questions on the list of issues, it could postpone consideration of those questions until later. A start could be made by preparing a list of questions on which attention could initially be focused.

64. The CHAIRPERSON suggested that it would cause fewer difficulties for the Israeli delegation if the Committee took up its report on the afternoon of 15 July or the morning of 16 July.

65. Mr. PRADO VALLEJO said that what concerned him was that the Committee risked setting a precedent by embarking on consideration of reports which a majority of its members had not even read. Such a precedent would be highly undesirable. He suggested that the Committee should apologise to Israel, and

decide to postpone consideration of its report until November. If that were not possible, the Chairperson should at least initiate consultations with the delegations of other States parties to see whether the necessary adjustments to the timetable could be made so as to enable the report to be taken up later in the current session.

66. Ms. MEDINA QUIROGA supported that suggestion.

67. Mr. EL SHAFEI pointed out that, where the report of Israel was concerned, the working group, too, had had to work under very difficult conditions, and the drafting of a list of issues was in itself something of an achievement. He agreed that the least damaging course would be to move consideration of the report forward to the afternoon of 27 July. It was not the first time the Committee had had to deal with a report provided in one language only, and he urged that no further time should be spent in discussing the issue.

68. Mr. KLEIN said it would be preferable to deal with the report as scheduled, and to decide in advance on the order in which the various questions on the list should be taken up.

69. The CHAIRPERSON said she took it the consensus was that the timetable would be left unchanged. The Committee would decide that afternoon in closed session how the questions on the list of issues relating to the Israeli report were to be distributed.

70. It was so decided.

71. The list of issues to be taken up in connection with the consideration of the initial report of Israel (CCPR/C/81/Add.13), as amended, was adopted.

Draft list of issues to be taken up in connection with the fourth periodic report of Italy (CCPR/C/103/Add.4)

Paragraph 1

72. Mr. ANDO proposed that the paragraph should be deleted. It went without saying that the State party would add any information that had become available.

73. Lord COLVILLE said that, while he had no objection to deletion of the paragraph, he had included it because he understood that Italy had indicated that it was not prepared to furnish information subsequent to the date of submission of the report. That would mean that the Committee would have before it only material that was two years old.

74. Mr. de SAYAS (Secretary) in response to a question from the CHAIRPERSON, explained that Italy had only recently been requested to report to the Committee at its sixty-third session as a replacement for Libya. It had, therefore, not been possible for it to make any submissions subsequent to 30 October 1996. The Secretariat had been in close contact with the Italian mission, and the State party was aware that, at very least, an oral update would be desirable.

75. The CHAIRPERSON said she noted that the draft list of issues had already been sent to the State party.

76. Ms. MEDINA QUIROGA stressed that the Committee had never before made such a request to a State party. It was normally to be expected that any necessary updating would be provided, and she supported the suggestion that the paragraph be deleted.

77. Ms. EVATT said the issue had caused some difficulty in the working group. The best solution would be for the Chairperson to make a statement before the report was presented that, as a matter of principle, all reports should cover the period up to the date of their presentation.

78. Lord COLVILLE supported that suggestion. The draft list of issues having been sent to the State party, the Committee had made its point and paragraph 1 could be deleted.

79. It was so decided.

80. Mr. ZAKHIA said the list of issues should begin with questions about general matters and then go on to particular problems. One important general matter was that of discrimination against women and he proposed that a question on the subject should be added.

81. The CHAIRPERSON pointed out that paragraph 7 dealt with gender discrimination.

82. Lord COLVILLE said that the issue raised by Mr. Zakhia was precisely one of those on which the Committee needed to have additional, up-to-date information. A Ministry for Equal Opportunities had been established in 1996 but, because the report had been written in the same year, no information on the subject had been available. The need for the latest information on equality between men and women should perhaps be raised during the discussion.

Paragraph 2

83. Mr. KLEIN pointed out that paragraph 9, like paragraph 2, dealt with issues relating to article 14. He proposed that article 9 be transposed to follow paragraph 2 in the list of issues.

84. Lord COLVILLE explained that, in drafting the list of issues, he had sought to focus on the most important matters, especially those raised in the Committee's conclusions and recommendations concerning previous reports. In Italy's case, the main issue was the slow movement of the legal machinery: approximately 30,000 cases were currently awaiting trial. If the Committee addressed issues in the order in which they appeared in the Covenant, there might not be sufficient time to explore fully the important matters connected with article 14. The questions raised in paragraph 9, which likewise related to article 14, were less important than the one in paragraph 2.

85. Mr. KLEIN said that, while he accepted those arguments, he would prefer the two paragraphs dealing with article 14 to become the first two paragraphs in the list of issues.

86. Mr. KRETZMER proposed an addition to paragraph 9, to become subparagraph 9 (d), which would read: "Under what circumstances can a person be tried in absentia and is the law in Italy consistent with article 14, paragraph 3, subparagraph (d), of the Covenant?"

87. Lord COLVILLE said he welcomed that proposal and would like to supplement it by an additional sentence to read: "Does a person tried in absentia have the right to a retrial if he or she returns to Italy and is apprehended there?"

88. The CHAIRPERSON said that she took it that the Committee wished to adopt those amendments to paragraph 9 and to transpose the paragraph so that it would follow paragraph 2.

89. It was so decided.

90. Paragraphs 2 and 9, as amended, were adopted.

Paragraph 3

91. The CHAIRPERSON suggested that the phrase "The State party is requested to" be replaced by the word "Please".

92. It was so decided.

93. Paragraph 3, as amended, was adopted.

Paragraph 4

94. The CHAIRPERSON suggested that, since paragraph 4 and paragraph 8 both contained two subparagraphs dealing with conditions of detention, they should be combined to form subparagraphs (a) to (d), of a single paragraph, namely, paragraph 4.

95. It was so decided.

96. Paragraph 4, as amended, was adopted.

Paragraph 5

97. The CHAIRPERSON suggested that paragraphs 5 and 7 be combined, as they both dealt with discrimination.

98. Lord COLVILLE said that the paragraphs dealt with different aspects of discrimination, each of which was highly important in its own right. He would therefore prefer the two paragraphs to remain separate.

99. Mr. SCHEININ said he agreed that the paragraphs should remain separate but suggested that the very broad title of paragraph 5, "Discrimination", should be amended to read: "Discrimination against foreigners and immigrants". Articles 9, 10, 12, 13 and 14 might be cited in the heading, in addition to article 26.

100. It was so decided.

101. Paragraphs 5 and 7, as amended, were adopted.

102. Mr. YALDEN, referring to the issue of gender discrimination raised in paragraph 7, said that there was very little information on the situation of women in the report and absolutely no information on the independent monitoring body that was to have been set up to check on whether equal opportunities were available for men and women.

Paragraph 6

103. The CHAIRPERSON, responding to a comment by Mr. ZAKHIA, suggested that the title of the paragraph should be revised to conform to the wording of article 9 of the Covenant and to read "Liberty and security of the person".

104. It was so decided.

105. Paragraph 6, as amended, was adopted.

Paragraph 10

106. Mr. YALDEN said that a question that had appeared in an earlier version of the list had been omitted. It had dealt with the institution of the national ombudsman. He suggested that that omission be rectified.

107. It was so decided.

108. Lord COLVILLE, responding to a query by the CHAIRPERSON regarding the title of the paragraph ("Implementation of the Covenant"), said he had been unable to find a better title to cover the range of issues therein. He was open to any suggestions for improvement.

109. The CHAIRPERSON suggested that the paragraph be divided: subparagraphs (a) and (b), which dealt with training and information, should form one paragraph, while subparagraphs (d) and (e), relating to ombudsmen and human rights monitoring bodies, should form another. Subparagraph (c) which dealt with the National Observatory on Religious Freedom and religious movements or sects, should be deleted or, if it were retained, incorporated in paragraph 12 the on protection of the family.

110. Lord COLVILLE pointed out that subparagraph (c) dealt with issues raised under article 18 on freedom of thought, conscience and religion. He would be averse to deleting it, as religious sects represented a serious problem in some countries. It might become a separate paragraph relting to article 18.

111. Mr. YALDEN, in reply to a question by Ms. MEDINA QUIROGA, said that the Committee had received no confirmation that the National Observatory on Religious Freedom had actually been set up: the subparagraph should therefore be rephrased as a question as to whether it had been established, rather than incoming the activities it had undertaken.

112. The CHAIRPERSON said she took it that the Committee wished to divide paragraph 10 into three separate paragraphs along the lines suggested in the course of the discussion.

113. It was so decided.

114. Paragraph 10, as amended, was adopted.

Paragraphs 11 to 13

115. Paragraphs 11 to 13 were adopted.

Paragraph 14

116. Ms. MEDINA QUIROGA, supported by Mr. BUERGENTHAL, proposed that the title should be revised to correspond to the wording of article 27 of the Covenant, namely "Rights of persons belonging to minorities".

117. Mr. YALDEN said that article 27 also used the phrase "in community with the other members of their group". The title "Rights of Minorities" thus seemed perfectly acceptable, as it covered both the group and the individuals. Nevertheless, he was able to accept the proposal.

118. The proposal was adopted.

119. Paragraph 14, as amended, was adopted.

120. The list of issues as a whole, as amended, was adopted.

Draft list of issues to be taken up in connection with the third periodic report of the United Republic of Tanzania (CCPR/C/83/Add.2)

121. Lord COLVILLE said that, once again, the list of issues had been drafted in such a way as to draw attention from the very start to the most important ones. The issues were thus covered not in the order in which they appeared in the Covenant but in keeping with points raised in the previous concluding observations and recommendations made by the Committee.

Paragraphs 1 to 3

122. Paragraphs 1 to 3 were adopted.

Paragraph 4

123. The CHAIRPERSON suggested that the title be changed to read "Protection of refugees in conformity with the provisions of the Covenant".

124. It was so decided.

Paragraph 5

125. The CHAIRPERSON suggested that the paragraph be broken into two: subparagraphs (a) and (b), dealing with issues under article 9 and relating to liberty and security of the person, would form one paragraph, while subparagraphs (c) and (d), dealing with issues under article 7 on torture, would form another.

126. It was so decided.

127. Mr. POCAR proposed that, in paragraph 5 (b), the word "unjustifiably" should be replaced by "unlawfully", the term used in the Covenant.

128. It was so decided.

129. Paragraph 5, as amended, was adopted.

Paragraphs 6 and 7

130. Paragraphs 6 and 7 were adopted.

The meeting rose at 1 p.m.

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HUMAN RIGHTS COMMITTEE

Sixty-third session

SUMMARY RECORD OF THE 1672nd MEETING

Held at the Palais des Nations, Geneva,
on Monday, 13 July 1998, at 3 p.m.

Chairperson: Ms. CHANET

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ORGANIZATIONAL AND OTHER MATTERS (continued)

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GE.98-16842 (E)

The meeting was called to order at 3.15 p.m.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

Draft list of issues to be taken up in connection with the third periodic report of the United Republic of Tanzania (CCPR/C/63/Q/URT/1) (continued)

1. The CHAIRPERSON invited the Committee to resume its consideration of the draft list of issues relating to the third periodic report of the United Republic of Tanzania, starting with paragraph 8.

Paragraph 8: Self-determination, freedom of assembly and participation in public affairs (arts. 1, 21 and 25)

2. Mr. BHAGWATI proposed that the word "self-determination" in the title should be deleted.

3. Mr. SCHEININ said that that word should be retained because there was a link between self-determination and the criteria required for the registration of a political party, as referred to in paragraph 8 (b).

4. The CHAIRPERSON said that the question contained in paragraph 8 (b) related to the rights provided for in article 25 of the Covenant, but she did not see any direct link with self-determination, unless it was made clear what the Committee meant by that question.

5. Mrs. EVATT said that there was a link between the right to self-determination and the rights provided for in article 25, but she agreed that that was not very clear from the question as formulated. Article 22 should also be referred to in the title.

6. Lord COLVILLE (Country Rapporteur) said that he was in favour of deleting the word "self-determination" and the reference to article 1 in the title. In his opinion, concerns about the right to self-determination could be referred to orally by the members of the Committee.

7. Mr. SHEININ said that, in paragraph 7 of the report (CCPR/C/83/Add.2) under the heading of article 1 of the Covenant, the State party referred to the right of peoples to self-determination and to the registration of political parties, and that enabled the Committee to establish a link between the two. The reference to article 1 should therefore not be deleted.

8. Lord COLVILLE (Country Rapporteur) said that there was a possibility of referring to the question of self-determination in connection with articles 21, 22 and 25, if the Committee so wished, and he intended to raise the question orally. The reference to article 1 could therefore be deleted.

9. Mrs. EVATT said that she supported Lord Colville's comments.

10. Mr. ZAKHIA said that self-determination came under international law, whereas the question of the registration of political parties came under a country's internal law.

11. The CHAIRPERSON said she took it that the Committee wished to delete the word "self-determination" in the title of paragraph 8 and to refer to articles 21, 22 and 25 in brackets.

12. It was so decided.

13. Paragraph 8, as amended, was adopted.

Paragraphs 9 to 15

14. Paragraphs 9 to 15 were adopted.

Paragraph 16

15. Mr. POCAR said that he was puzzled about the wording of paragraph 16 (a) which asked the same questions about official and non-governmental human rights organizations, including the extent of their jurisdiction.

16. Mrs. EVATT said that the reference to "non-governmental organizations" in paragraph 16 (a) should be deleted and that another question should be added between subparagraphs (a) and (b) relating exclusively to non-governmental organizations and using the wording of the first question in subparagraph (a).

17. Mr. YALDEN said he supported the proposal that the reference to non-governmental organizations in the first sentence of subparagraph (a) should be deleted.

18. Lord COLVILLE (Country Rapporteur) proposed that paragraph 16 should be amended in the following way: subparagraph (a) would be retained, except that the words "or non-governmental" would be deleted; subparagraph (b) would ask what non-governmental organizations existed to monitor, publicize and promote human rights in Tanzania; and subparagraph (c) would reproduce the text of the existing subparagraph (b).

19. Mr. KLEIN said that he supported that proposal, but would like the first question to relate to "official organs or bodies" rather than to "official organizations".

20. The CHAIRPERSON said that, in the first question, the Committee would ask whether there were official organs or bodies to monitor, publicize and promote human rights in Tanzania and what those organs or bodies were, what laws or measures were in place to ensure their independence and what the extent of their jurisdiction was. The second question would ask whether there were non-governmental organizations to monitor, publicize and promote human rights in Tanzania and what laws and measures had been adopted to enable them to operate. The third question would relate both to official organs and bodies and to non-governmental organizations and would ask whether there were reports and information from those organs and bodies and organizations which could be made available to the public and to the Committee.

21. Lord COLVILLE (Country Rapporteur), replying to a question by Mr. BUERGENTHAL, said it was true that the question of the independence of non-governmental organizations must not be raised in paragraph 16, but it could be included in paragraph 12, which related to the rights provided for in article 22 of the Covenant on freedom of association.

22. Mr. ZAKHIA, said it was also important to know whether non-governmental human rights organizations were entitled to institute proceedings in the event of human rights violations.

23. The CHAIRPERSON said that there seemed to be a consensus on paragraph 16, which would consist of subparagraph (a) on the existence of official organs and bodies for the promotion of human rights, on laws designed to ensure their independence and on their jurisdiction; subparagraph (b) on whether non-governmental organizations existed to monitor, publicize and promote human rights; and subparagraph (c) to ask what reports by official bodies and non-governmental organizations were available to the public and to the Committee. The text of paragraph 16 would be amended accordingly.

Paragraph 17: Reporting

24. The CHAIRPERSON said that the title was new.

25. Lord COLVILLE (Country Rapporteur) said that the title was not absolutely necessary and could be deleted, but he had found that the rights provided for by the articles referred to were particularly important in the context of the country under consideration and that the report said nothing about them.

26. The CHAIRPERSON said that, if the title was deleted, the Committee might add comments in the paragraphs on the articles of the Covenant on which the report did not contain any information, such as paragraph 12 in relation to article 22 and paragraph 15 in relation to article 27.

27. Mr. LALLAH, supported by Mr. KRETZMER, said that, if paragraph 17 was deleted, the State party, which had already been given the initial version of the list of issues during the consideration of its third report, might conclude that the Committee was no longer concerned about the lack of information on the enjoyment of the rights provided for in articles 21, 23, 26 and 27. He would not object if the questions on those articles were asked in the relevant paragraphs.

28. Lord COLVILLE (Country Rapporteur) said that the deletion of paragraph 17 would be unnoticed, since the rights provided for in article 12 were covered by the questions asked in paragraph 4, those provided for in article 21 were dealt with in paragraph 8, those provided for in articles 23 and 26 in paragraph 2 and those provided for in article 27 in paragraph 15.

29. The draft list of issues to be taken up in connection with the third periodic report of the United Republic of Tanzania (CCPR/C/63/Q/URT/1), as amended, was adopted.

30. The CHAIRPERSON invited the members of the Committee to consider the draft list of issues to be taken up in connection with the consideration of the second periodic report of Algeria (CCPR/C/63/Q/ALG/1), the text of which was available in English only.

Paragraph 1: Right to life (art. 6)

31. The CHAIRPERSON, referring to a suggestion by Mr. KRETZMER, said that the question asked in subparagraph (c) would be stated more clearly and would refer, in particular, to three massacres which had been committed in 1997 in Sidi Raïs (28 August), Sidi Youssef (5 September) and Ben Talha (22 and 23 September). A sentence would be added to that subparagraph in which the Committee would ask when the Algerian authorities had learned of those three incidents and what measures they had taken to protect civilians.

Paragraph 2

32. The CHAIRPERSON said that paragraph 2 should have a title, which might be the same as that of paragraph 1.

33. Following an exchange of views in which Mr. LALLAH, Mr. KLEIN and Mr. PRADO VALLEJO took part, the CHAIRPERSON suggested that Mr. Klein's proposal for the amendment of the first two sentences of the paragraph should be adopted so that the Government would be asked what measures it had taken to ensure the protection of persons who seemed to be targeted by extremist Islamic groups only because they were human rights defenders, Muslim clerics or Christian ministers.

34. It was so decided.

35. Mrs. MEDINA QUIROGA proposed that the last two questions in paragraph 2 relating to the protection of civilians should be included in paragraph 1 (c).

36. It was so decided.

Paragraph 3: Disappearances (art. 6)

37. The CHAIRPERSON said that the title should be amended to read: "Right to life and disappearances (art. 6)".

38. Replying to a request by Mr. Scheinin, she said that a new paragraph on the right to life and the death penalty would be added in which the Committee would request the Algerian delegation to provide explanations on the 200 or so death sentences which had been handed down.

Paragraph 5: Right to life and freedom of expression (arts. 6 and 19)

39. After an exchange of views in which Mrs. MEDINA QUIROGA, Mr. KLEIN and Mr. PRADO VALLEJO took part, the CHAIRPERSON said that paragraph 5 would be recast. The first two sentences on the targets of armed groups would become a new subparagraph of paragraph 2. The rest of paragraph 5, which dealt specifically with freedom of expression, would become a separate subparagraph on the implementation of article 19 of the Covenant that would be included in

paragraph 11. The words "national unity" would be placed in quotation marks to show clearly that they were the words used in the report (CCPR/C/101/Add.1) and that they gave rise to questions in connection with the implementation of the Covenant, since national unity was not a possible ground for derogation within the meaning of article 4.

Paragraph 6: State of emergency (art. 4)

40. Mr. POCAR proposed that the second sentence should be amended to ask why the Secretary-General of the United Nations had not been notified of the extension of the state of emergency.

41. The proposal was adopted.

Paragraph 7: Right to liberty (arts. 4 and 9)

42. The CHAIRPERSON said that the title would be amended to use the wording of articles 4 and 9 of the Covenant.

43. Following an exchange of views in which Mrs. MEDINA QUIROGA, Mr. KLEIN, Mr. YALDEN, Mr. SCHEININ and Mrs. EVATT took part, the CHAIRPERSON said that the question on trials in absentia would be deleted and that explanations with regard to that type of trial would be requested in connection with the implementation of article 14 of the Covenant. The rest of paragraph 7 would be kept unchanged.

Paragraph 8: Right to liberty and security of person (art. 9)

44. After an exchange of views in which Mr. PRADO VALLEJO, Mr. ZAKHIA, Lord COLVILLE, Mrs. MEDINA QUIROGA and Mr. EL SHAFEI took part, the CHAIRPERSON said that the following amendments would be made: the two questions on restrictions on the excessive use of force by "legitimate defence groups" and the security and police forces and penalties in the event of excesses would be deleted in order not to give the impression that the Committee was putting the "legitimate defence groups" on the same footing as the regular Algerian Government forces. A suitable text would also be drafted to get the Algerian delegation to explain the nature of the "legitimate defence groups", their relations with the Government and its control over their activities.

Paragraph 9: Right to liberty and security; and paragraph 10: Freedom from torture

45. The CHAIRPERSON said that, on the basis of a proposal by Mr. Klein, only the question on the rules governing incommunicado detention would be retained in the question relating to the right to liberty and security. The question on safeguards to prevent the ill-treatment of detainees would be moved to the paragraph on freedom from torture.

46. Following a discussion in which Mr. KLEIN, Mr. PRADO VALLEJO, Mrs. EVATT and Mrs. MEDINA QUIROGA took part, the CHAIRPERSON said that the order of all the questions in the paragraph on torture would be reviewed and that the sentence which asked whether torture was defined in Algerian law would be

deleted because it was clear from the report that torture, as defined in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, was a criminal offence in Algeria. All the questions on violence against women would come immediately after the paragraph on freedom from torture. However, the questions on the situation of women in Algeria now contained in paragraph 12, which referred only to article 3 on equality, had to be strengthened and expanded. On the basis of a proposal by Mr. Zakhia, she therefore suggested that the question on discrimination against women should consist of three parts: (1) violence against women; (2) restrictions on women in public life; (3) inequality under the law (inheritance, etc.).

Paragraph 11: Freedom of conscience and religion (arts. 18 and 25)

47. The CHAIRPERSON, referring to a proposal by Mr. KLEIN, said that the general question whether freedom of conscience and religion included freedom not to belong to a religious group or a recognized church would be dealt with in a separate paragraph on article 18 and that all the other questions in paragraph 11 would be kept together because they referred to the right to freedom of religion in relation to freedom of political parties, i.e. in relation to article 25.

48. She drew the Committee's attention to the fact that article 19, which was fundamental in Algeria's case because it provided for freedom of expression and therefore related, inter alia, to freedom of the press, would now be covered only by a question on publications. The treatment of that article would therefore have to be padded out by oral questions.

Paragraph 14: Independence of the judiciary

49. The CHAIRPERSON said that the paragraph on article 14 of the Covenant would have to be completely changed and that a question on special courts would have to be added.

50. Mr. KLEIN said that paragraph 14 on the independence of the judiciary had to be revised because, as it stood, it made no distinction between the status of judges, on the one hand, and the application of judicial decisions, on the other. He did not think that the Committee could ask whether decisions of special courts could be appealed to a court of second instance "before being brought to the Supreme Court", since article 14 required only the review of a decision by a higher court.

51. The CHAIRPERSON said that she agreed with Mr. Klein and that the question would be asked orally, not in writing.

52. Mrs. MEDINA QUIROGA said she was not sure whether the question on the information that a number of judges had been approached by the Minister of Justice with a view to preventing the release of certain defendants really belonged in the written list of issues, even though it did relate to the independence of the judiciary.

53. The CHAIRPERSON said that that important question would be raised orally and that the paragraph on the independence of the judiciary would be rearranged so that all the questions on the status of judges (irremovability,

term of office, etc.) were grouped together at the beginning; they would be followed by the questions on the new legislation relating to the judiciary and the powers of the Higher Council of Justice and on the stage reached in the National Assembly's consideration of the draft legislation. The Committee would also ask whether the special courts were still in operation and whether the rights guaranteed by article 14 were being respected, particularly as far as trials in absentia were concerned.

Paragraph 15: Status of the Covenant

54. Mrs. MEDINA QUIROGA said that paragraph 15 (b) relating to articles 26 and 27 had no bearing on the status of the Covenant and should therefore form a separate paragraph.

55. Mr. ZAKHIA said that the question on Arabization that was asked in paragraph 15 (b) had to be put differently because it would be easy for the Algerian authorities to claim that the obligation to use Arabic rather than French was not incompatible with the Covenant. The Committee therefore had to request further information on the use of languages other than Arabic, such as Amazigh, the Berber language. The fact that classical Arabic was not the language spoken by the population as a whole was true of all Arabic-speaking countries.

56. Mr. KLEIN said that the question on the Berber language should be strengthened because, in its report, Algeria denied that there were any minorities in its territory. He therefore requested that a specific question should be included, to read: "Please give further information on the existence and treatment of minorities, especially under the law making Arabic the only official language and not recognizing Amazigh (the Berber language)".

57. The CHAIRPERSON said that the status of the Covenant would be dealt with in a specific question and that the rights of minorities would be dealt with in another totally separate paragraph.

Paragraphs 16, 17 and 18

58. The CHAIRPERSON said that the articles of the Covenant corresponding to those three paragraphs would be added.

Paragraph 19: Reservations

59. Mr. POCAR drew attention to the fact that the Algerian Government had not formulated a reservation to article 23 and that the Committee could therefore not ask it whether it had the intention of withdrawing "its reservations on certain articles of the Covenant, particularly article 23".

60. The CHAIRPERSON said that that mistake would be corrected and that the Committee could consider that the list of issues to be taken up in connection with the second periodic report of Algeria would be amended on the basis of all the proposals made during the meeting.

The meeting was suspended at 5.05 p.m. and resumed at 5.15 p.m.

61. The CHAIRPERSON invited the Committee to consider the draft list of issues to be taken up in connection with the consideration of the initial report of the former Yugoslav Republic of Macedonia (CCPR/C/63/Q/YRM/1), which had been distributed in English only.

62. Mrs. MEDINA QUIROGA said it had been decided at an earlier meeting that violations of fundamental rights committed against women should not be dealt with only in connection with article 3, which related to equality between men and women, and that the question of discrimination against women should be discussed in connection with each issue considered. In the case of the list of issues relating to the former Yugoslav Republic of Macedonia, the question of discrimination against women must be asked explicitly in connection with the implementation of article 25 of the Covenant.

63. After a discussion in which Mr. BHAGWATI, Mr. KLEIN, Mr. YALDEN, Mr. KRETZMER and Mr. ANDO took part, the CHAIRPERSON said that the questions would be arranged in logical order, that the titles would be corrected on the basis of the articles of the Covenant and that a specific paragraph would refer to article 14, which had been left out of the existing list. On that understanding, she would take it that the list was adopted.

64. It was so decided.

The meeting rose at 5.35 p.m.

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HUMAN RIGHTS COMMITTEE

Sixty-third session

SUMMARY RECORD OF THE 1673rd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 14 July 1998, at 10 a.m.

Chairperson: Ms. CHANET

later: Ms. MEDINA QUIROGA
(Vice-Chairperson)

later: Ms. CHANET
(Chairperson)

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Fourth periodic report of Ecuador (CCPR/C/84/Add.6)

1. At the invitation of the Chairperson, Mr. Gallegos Chiriboga, Mr. Guzmán, Mr. Rodas and Mr. Castrillón (Ecuador) took places at the Committee table.

2. The CHAIRPERSON, having welcomed the delegation of Ecuador, said she took the opportunity of expressing, on behalf of the Committee, special thanks to Ecuador for the 22 years of distinguished service to the Committee of Mr. Prado Vallejo, who would be greatly missed on account of his technical expertise, experience and general talents. She invited the head of the Ecuadorian delegation to make an introductory statement.

3. Mr. GALLEGOS CHIRIBOGA (Ecuador) said that the career of Mr. Prado Vallejo as a distinguished defender of human rights in the Committee was a corollary to his many years of political work in Ecuador in support of the principles of democracy.

4. In its fourth periodic report and the addendum thereto, the Government of Ecuador sought to highlight the progress made in the field of human rights and to do so with the greatest possible degree of openness and honesty. Significant advances had been made in three areas since the submission of the fourth periodic report, the first being the establishment of a new legal order. By a referendum in May 1997, the Ecuadorian people had decided to convene a constituent assembly for constitutional reform. On 25 May 1998, that assembly had adopted a new constitution which incorporated all the rights deriving from Ecuador's international commitments and its respect for fundamental human rights.

5. Secondly, as part of the commemoration of the fiftieth anniversary of the adoption of the Universal Declaration of Human Rights, a National Human Rights Plan, regarding which all sectors of civil society had been consulted, had been unveiled on 10 December 1997. The Plan, which outlined specific activities in connection with a wide range of rights and established a number of basic objectives, would enable Ecuadorian society to internalize human rights as individual values.

6. The third achievement in the area of human rights involved a cooperative project for the elaboration of human rights reports. A technical cooperation programme with the Office of the High Commissioner for Human Rights would enable such reports to be prepared by an interdisciplinary committee with the participation of civil society. The addendum to the report was the first fruit of that programme and, as such, had been somewhat delayed.

7. There was also an innovative cooperative project to strengthen the country's capacity to implement the National Human Rights Plan. Although Ecuador was undergoing one of the most severe economic crises in its history, the Government intended to make a contribution in kind to the Office of the

High Commissioner for Human Rights whereby Ecuadorian citizens would work with the Office as part of an "external debt swapping arrangement". The first project of its type, it would enable his country to contribute human resources in lieu of the financial resources that it lacked.

8. Mr. LALLAH said that there had been several references by the head of the Ecuadorian delegation to an addendum to the report. He would like to know what document was meant and where it could be found.

9. Mr. GALLEGOS CHIRIBOGA said that, since the fourth periodic report did not cover some recent and important achievements in the field of human rights, his Government had submitted an addendum to supplement the report. It was his understanding that time constraints had prevented the addendum from being distributed. The United Nations Office at Geneva had been unable to produce a translation of the 35 pages of Spanish in question because of the ongoing Rome Conference on the Establishment of an International Criminal Court. That was a most unfortunate development since his Government had prepared the document with a view to providing the Committee with the best and most up-to-date information on the human rights advances made in Ecuador in recent months.

10. Mr. de SAYAS (Secretary of the Committee) said that the addendum to the fourth periodic report of Ecuador had been received 10 days previously, together with the written replies to the questions in the list of issues. The Committee secretariat had inquired about the translation of those documents and had been informed that, in view of the deadlines for translation services, the addendum could not be translated, but that an attempt would be made to translate the replies to the list of issues. Unfortunately, that translation was not yet available either.

11. The CHAIRPERSON said that that regrettable incident was but another in the long series of problems encountered in connection with the Committee's working conditions. In response to a query by Mr. YALDEN, she said the Spanish language version of the addendum would be made available to the members of the Committee who requested it.

12. Mr. LALLAH said it was unfortunate that the secretariat had not informed the Committee of the existence of the addendum and of the fact that it could not be translated.

13. Mr. GALLEGOS CHIRIBOGA (Ecuador) said that, as Vice-Chairman of the Commission on Human Rights, he deplored the fact that budgetary restrictions on human rights bodies were undermining their capacity to carry out their work and to defend human rights. The Commission would be taking a close look at the effect of those restrictions on the work of human rights specialists such as the members of the Committee.

14. Turning to the first question in the list of issues (CCPR/C/63/Q/ECU/1), he gave the following information on the number of women involved in political decision-making. In 1990, no woman had held a ministerial post, while 15 per cent of all under-secretaries and 14 per cent of department heads had been women. In 1992, 26 per cent of the directors and staff in the highest echelons of the civil service had been women. By 1997, a woman had become Vice-President of the Republic, there were three female ministers and women

presided over the Council on Indigenous Nationalities and the National Council for Women. Two women had been candidates for the Presidency in the most recent elections.

15. In terms of the access of women to decision-making positions in the civil service, he said that 26 per cent of such positions were currently occupied by women. The number of women employed in the educational sector had increased. In the 1990/91 school year, 56 per cent of teachers at all levels had been women whereas, in the 1995/96 school year, 59 per cent of all academic, administrative and service staff had been women.

16. In 1994, only one woman, representing 4 per cent of the total, had held a high position in the judiciary, serving as Secretary of the Supreme Court, and five women, or 3 per cent, had served as judges at the high court and district court levels. In the Quito High Court, two judges, or 3.8 per cent of the total, had been women. In 1996, one of the 28 justices of the Supreme Court had been a woman. In 1997, 7 per cent of the nominees to the Supreme Court had been women. The methods of filling posts on the Supreme Court had been modified under the recent constitutional reform with a view to depoliticizing the process.

17. In 1994, there had been a number of woman judges in courts dealing with specific matters, such as leasing and employment. Of the 571 judges in the district courts, 14 per cent had been women. In 1997, six women had been in charge of specialized police stations for women and the family in six of the country's provinces. More such specialized police stations had recently been opened.

18. In 1989, 7.1 per cent of all diplomatic posts had been held by women; in 1994, 15 per cent of diplomatic staff and 18 per cent of consular staff had been women. A total of 74 non-governmental organizations (NGOs) working for the advancement of women had been recorded in the country in 1990, 34 per cent at the national level and 66 per cent at the regional level. A total of 692 social development organizations had been recorded in 1994-1995, 238 of them working with children and 212 with women.

19. In response to the Committee's request for current data on the number and proportion of Afro-Ecuadorians and indigenous people in the political life of the country, he said that four indigenous persons had been elected as deputies at the regional, and one at the national level, in the 1996 elections. Two indigenous persons had been elected to the constituent assembly. There were a few indigenous persons working in the public sector, principally in such areas as bilingual intercultural education, and serving on a national council established to promote the rights of indigenous peoples and Afro-Ecuadorians. Ecuador was somewhat limited in its ability to provide statistics by the high cost of the exercise, especially during the severe economic crisis of recent years, and by the magnitude of population movements in rural areas, which made monitoring very difficult.

20. The Government was implementing a national action plan as part of its effort to combat the high rate of infant mortality which had already resulted in a drop in the mortality of children aged under five and in fewer deaths from measles and acute respiratory infections. Maternal mortality and deaths

of infants aged less than one year had risen, however, and immunization rates, the provision of institutional care during childbirth, water supplies and sewage disposal had worsened. The main reason for those developments was the destruction of major sections of the coastal infrastructure by El Niño. The Ministry of Health had deployed major efforts to contain epidemics, with the encouraging result that Ecuador had been spared the spread of diseases seen in other countries.

21. No cases of poliomyelitis had been recorded in the country since 1991, thanks to a long-running immunization campaign accompanied by an effective follow-up system. Immunization coverage against tuberculosis was almost 99 per cent, one of the highest rates in Latin America. Ninety-nine per cent of the salt for human consumption had an adequate iodine content, and 97 per cent of the population was consuming salt, which would essentially eliminate disorders related to iodine deficiencies, especially mental disorders among children.

22. By the end of 1995, 78 of the 141 hospitals nationwide had been designated "Friendly to mothers and children" for promoting breastfeeding and overnight parental stays and for not using breast milk substitutes to feed newborns. Those efforts had reduced the risk of malnutrition, disease and death among infants. The health sector was undergoing reform and public spending on health was to be increased to 10 per cent of the overall State budget.

23. Poverty was Ecuador's greatest threat, as economic constraints prevented the Government from expanding the social services. The external debt burden was one of the major drains on the national budget, diverting resources from and preventing investment in the neediest social sectors.

24. Mr. GUZMAN (Ecuador) said that the question about the proportion of Afro-Ecuadorians and indigenous people in the population seemed rather a strange one in the Ecuadorian context, owing to the country's high degree of social mobility and social integration. Within the broad range of a mestizo population, it was only militant groups that claimed racial differences. Many members of Congress had racial ties to the indigenous population but they acted as representatives not of the indigenous people but of Ecuadorian citizens. Many people holding high positions in the political, economic, social and economic life of the country were of indigenous or Afro-Ecuadorian ancestry.

25. The problem of the high rate of infant mortality was being tackled through distributions of food supplements in the country's rural areas as well as through efforts to promote breastfeeding. Those programmes were being implemented without any discrimination as to the racial composition of the beneficiaries and were already reflected in appreciable improvements in the infant health situation. Any disadvantages still being suffered by women in respect of participation in the political, economic, social and cultural life of the country were the result not of discrimination but of social and economic conditions that were being rapidly overcome. The number of women students at colleges and universities was at least equal to that of men; for example, the majority of law students were women.

26. Mr. GALLEGOS CHIRIBOGA (Ecuador) said that, as already pointed out, the recent constitutional reform had brought about enormous changes in the area of women's rights. Although widespread poverty was still restricting women's opportunities to acquire a higher education and to achieve equality with men, significant changes had been taking place of late, not least as a result of the establishment of the National Council for Women in March 1997.

27. Mr. GUZMAN (Ecuador) said that equal rights and opportunities for women were expressly established in the Constitution, while a number of special rights and privileges for nursing mothers, working women, female heads of household and pregnant women were provided under the new Labour Code. Any kind of discrimination against women at work was expressly prohibited. The concept of "productive work" had recently been expanded to include unpaid domestic work. The State was formulating and implementing policies designed to achieve equality of opportunities for men and women and was progressively incorporating gender rules into its economic and social plans and programmes. It was thus actively creating special conditions to promote women's right to equality.

28. Mr. GALLEGOS CHIRIBOGA (Ecuador) said that the total number of complaints of violence against women received over a three-year period was 22,820, 5,705 complaints having been received in the past six months. Some three quarters of the complaints had been lodged by the victims themselves and the remainder by relatives, lawyers and third parties. It should be noted that police stations dealing specially with cases of violence against women ("Comisarìas de la Mujer") had recently been increased from 22 to 35. Another important development was the approval by the Supreme Court of Justice of a project for the establishment of family courts, in which the National Council for Women was to take part by providing training for future judges. Lastly, it should be noted that, by a decision of the National Congress, sexual harassment was henceforth to be considered a punishable offence.

29. Mr. GUZMAN (Ecuador) said that the special police stations for women, whose number had more than doubled in the last year or two, were engaged in many activities ranging from following up complaints and issuing arrest warrants to providing courses in women's rights. Their role in bringing offenders to book was dramatically illustrated by a recent case in which a man accused of violence by his wife had committed suicide in the presence of the investigating officer. According to the information provided by the National Council for Women, there had been 20 criminal trials involving violence against women between April and October 1996.

30. Mr. GALLEGOS CHIRIBOGA (Ecuador) said that article 18 of the Human Rights Plan he had already mentioned provided for specific action to mobilize public opinion in support of a new cultural model favourable to children and adolescents. The National Institute for Children and the Family, together with the Ministry of Social Welfare, had formulated a number of programmes designed to curb violations of children's rights. A special department for the protection of childhood and adolescence ("Defensoría de la Niñez y Adolescencia") had also set up offices in various parts of the country with

a view to helping children and teenagers at risk. In a country where 50 per cent of the population was under 19 years of age, protection of the rights of the child was a matter of paramount importance.

31. Mr. GUZMAN (Ecuador) added that a special unit for the protection of children had been established within the national police.

32. Mr. GALLEGOS CHIRIBOGA (Ecuador) said that the implementation of the Juvenile Code relating to employment of minors was being monitored, inter alia, by a recently established inter-institutional group. As far as the prevention of child labour and of the economic exploitation of children was concerned, no particular difficulties had arisen in respect of child labour in the formal sector of the economy, where the ban on employment of minors under the age of 14 was generally respected. On the other hand, many children felt they had a duty to help their parents in their neighbourhood shops, cottage industries, etc. Participation in such activities could hardly be described as child labour and still less as exploitation. No coercion was involved and the child could generally combine such work with school attendance.

33. Ms. Medina Quiroga, Vice-Chairperson, took the Chair.

34. Mr. GALLEGOS CHIRIBOGA (Ecuador) said that some isolated cases of arbitrary deprivation of life and enforced disappearance in Ecuador did not constitute a systematic practice of violation of human rights. Nevertheless, some difficulty did exist in that area and his Government was making every effort to introduce reforms and to monitor the relationship between civil society and the police. In particular, it had recently embarked upon a process of compensating the families of victims who had lost their lives over the past decade as a result of arbitrary actions by the police and the military. The amounts paid in compensation could be considered as sizeable in the light of Ecuador's economic possibilities. He was not aware of any recent reports of cases of extrajudicial execution, disappearance, torture or other inhuman or degrading treatment or punishment, or death in custody.

35. Mr. GUZMAN (Ecuador) said that his Government had adopted a harder line on genocidal crimes than some of its neighbours. The new Constitution proclaimed such crimes to be imprescriptible and no amnesty for their perpetrators was possible.

36. The amount of compensation paid to the family of Professor Consuelo Benavides was US$ 1 million and the Government was committed to naming a number of schools and streets in her honour. Agreements as to compensation had been reached with the families of other victims. The necessary funds were to be recovered from the estate of the guilty officials. In the case of the seven peasants arbitrarily detained and tortured by the police near the frontier with Colombia, compensation was to be paid to the community concerned.

37. All complaints of illegal use of weapons by the police were immediately investigated and legal action was taken under civil or criminal law.

38. Efforts to speed up the trial and sentencing process included the building of new detention centres in various parts of the country. However, it was not yet possible to ensure that persons in pre-trial detention were held separately from those already sentenced.

39. Mr. GUZMAN (Ecuador) quoted article 24 of the Constitution, which stipulated that an arrested person must be clearly informed of the reasons for his arrest and the identity of the authority who ordered it, the officers who carried it out and the persons conducting the interrogation. An arrested person had also to be informed of his right to remain silent, to request the presence of a lawyer and to communicate with a relative or any other individual.

40. Anyone who made an arrest, with or without a written warrant from a judge, and was unable to prove that the arrested person had been handed over immediately to the competent authority was liable to punishment. Nobody could be interrogated without the assistance of a defence lawyer of his own choice or appointed by the State. Evidence obtained in pre-trial legal proceedings that failed to comply with that stipulation was inadmissible.

41. Pre-trial detention could not be extended beyond six months in the case of offences punishable by ordinary imprisonment and beyond one year in the case of offences punishable by rigorous imprisonment.

42. As a result of the decriminalization of the consumption of drugs or psychotropic substances, a large number of detainees had been released. Furthermore, the State had intensified its prison building and extension programme to deal with the problem of overcrowding.

43. Ms. Chanet resumed the Chair.

44. Mr. GALLEGOS CHIRIBOGA (Ecuador) drew attention to the involvement of NGOs in the inspection of places of detention with a view to detecting cases of wrongful detention and ensuring the release of the persons concerned. The National Human Rights Plan also placed considerable emphasis on the need to improve the conditions of detention.

45. Mr. GUZMAN (Ecuador) quoted article 23 of the Constitution, which required the State and other public-sector bodies to compensate private individuals for any loss or damage suffered as a consequence of the acts of their officials and employees in the performance of their duties. The Constitution further stipulated that the law should classify such transgressions and establish the administrative, civil and penal responsibility of natural or legal persons for breaches of the rules that guaranteed the freedom and security of individuals.

46. Mr. GALLEGOS CHIRIBOGA (Ecuador), replying to the question on states of emergency, said that non-derogable rights were protected by the remedies that had already been mentioned and by the Constitution itself. The addendum to the fourth periodic report gave specific details of the scope of the suspension of certain constitutional guarantees during states of emergency. It was most regrettable, therefore, that the addendum had not been made available to the members of the Committee in all the working languages.

47. The CHAIRPERSON said that the fact that the Committee was not familiar with such an essential document had certainly made its dialogue with the delegation a great deal more difficult.

48. Ms. MEDINA QUIROGA said that, although the report frankly acknowledged the need for an improvement in the participation of women in political and economic life, she felt that the authorities themselves needed to change their attitudes. For example, they could do something about the fact that only 7.1 per cent of diplomats were women. According to paragraph 57 of the report, the Labour Code required firms employing 35 or more female workers to provide a day-care service, the implication being that only women were responsible for child care.

49. According to the statistics in the report, the average number of years' schooling of women aged 24 and over had declined between 1990 and 1994, from 4.7 to 3.8 years in the case of women in rural areas. The significant increase in the drop-out rate for females over 15 years of age suggested that the young women concerned were either rearing families or doing housework.

50. Had the Ecuadorian authorities considered decriminalizing abortion to save mothers' lives and in the case of rape? Abortion was currently tolerated only where a rape victim was mentally handicapped. A juvenile victim of rape, on the other hand, was forced to carry her pregnancy to term, with all the attendant social and educational consequences. That surely amounted to cruel or inhuman treatment. Moreover, where an abortion was needed to save the life of the mother, the permission of a medical board was required. In view of the authorities' extremely severe attitude to abortion, it was to be hoped that women, particularly poor women, had unrestricted access to contraceptives and that there was provision for sex education in the schools.

51. She noted from the addendum to the report that the Constitutional Court had suspended the provision whereby persons held in pre-trial detention for drug trafficking offences, unlike other detainees, could not be released after a period of detention equal to or more than one third of the maximum penalty for the crime of which they were accused. She wished to know more about the scope of the decision, in particular whether it had erga omnes status.

52. She asked whether a defence lawyer was made available immediately to arrested persons free of charge.

53. She gathered that refugees without proper papers were frequently detained on that account and would like to know what was being done to address that problem. It was unclear whether Ecuadorian citizenship was granted to the Ecuador-born children of illegal immigrants, what would happen if such parents were reluctant to register a child and whether they risked deportation if they proceeded with the formalities.

54. Ms. GAITAN DE POMBO said she noted that the 1997 National Human Rights Plan had been prepared in consultation with civil society, that it was to be implemented in close cooperation with the United Nations and inter-American human rights bodies, and that its status was that of a long-term State policy document. Provision was made for specific activities, particularly in the area of collective rights, including those of the Afro-Ecuadorian and

indigenous communities. She noted that Ecuador had ratified the Convention on the Prevention and Punishment of the Crime of Genocide but was concerned about the reference in paragraph 84 of the report to genocidal practices and ethnic cleansing in certain regions. She would like to know whether specific action had been taken to stamp out such practices and whether those responsible had been called to account.

55. Although the Commission for Truth and Justice had received reports of over 200 cases of serious human rights violations following its establishment in 1996, the addendum to the report stated that it had disappeared de jure owing to a lack of funding. She would like to know what the Commission had achieved in terms of the promotion and protection of human rights and what body was currently carrying out its responsibilities.

56. Mr. BUERGENTHAL said he very much regretted that the hard work that had gone into the preparation of the addendum to the Ecuadorian report had been largely wasted in terms of the current dialogue. That was a disgraceful situation which reflected a lack of proper respect for a State party.

57. With regard to the case of the Restrepo brothers, Ecuador deserved credit for reaching a settlement and paying compensation of $2 million. It had done so, however, only after the Inter-American Commission on Human Rights had concluded that there had been a very serious violation. He would like to know what sentences had been imposed on the police officers found guilty of the offences involved.

58. Paragraph 121 of the report stated that 70 per cent of detainees were awaiting trial or sentencing. He asked whether there had been any improvement in that figure in the meantime, whether there was a system of provisional release on bail and, if so, how it operated and whether it was true that it applied only to individuals charged with an offence punishable by a prison sentence of less than one year.

59. Under the new system, persons in pre-trial detention for a period equivalent to one third of the maximum sentence for the offence with which they were charged were to be released. Their situation was still, however, incompatible with the presumption of innocence and amounted to a form of punishment. The representative of Ecuador had stated that persons released after detention without trial were entitled to compensation. He would like to know whether there was a specific law to that effect, in addition to the relevant article of the Constitution and whether anybody had benefited to date from its provisions?

60. Mr. KLEIN commended Ecuador on having submitted its fourth report to the Committee, thus laying the foundations for an ongoing and constructive dialogue. He assumed that the statement in article 1 of the Constitution that Ecuador was a multicultural and multi-ethnic country had normative implications and wondered whether any specific legal steps had been taken to back it up. Paragraph 285 mentioned a proposal to amend the Constitution so as to recognize Ecuador as a multinational State. If a consensus was reached on that issue, what were the possible implications?

61. He wished to know how many indigenous people and Afro-Ecuadorians held office in the Government or the judiciary. The representative of Ecuador had stated that it was difficult to distinguish the groups in question and that the issue was viewed as somewhat unorthodox in an open and united society such as that of Ecuador. That answer was not satisfactory. The very fact that indigenous people and Afro-Ecuadorians were the poorest sectors of the population indicated that they deserved special attention and needed to be distinguished from the majority.

62. According to paragraph 9 of the report, the great majority of the provisions of the Covenant had been incorporated into Ecuadorian internal law, whereas paragraph 10 asserted that the rights established in international treaties were fully protected by the Constitution. He would like to know which provisions of the Covenant had not been incorporated into Ecuadorian law.

63. According to paragraph 150 of the report, article 18 of the Immigration Act stated that police officials of the Immigration Service could allow aliens who had entered the country legally to leave the country of their own free will. He asked for an explanation of the meaning of that provision.

64. Mr. BHAGWATI commended the Ecuadorian authorities on their detailed report and on the 1996 constitutional reforms that had led to the establishment of the office of the Ombudsman, the Ad Hoc Commission on Human Rights and the Commission for Truth and Justice. He was also gratified to learn that Ecuador had abolished the death penalty many years previously.

65. According to paragraph 7 of the report, international treaties to which Ecuador was a party formed part of the legal system provided that they did not run counter to the Constitution and other laws. The implication was that, if part of a treaty was inconsistent with the Constitution and laws, it would not be given precedence. If that was indeed the case, he would like to know whether the Government intended to take the necessary steps to give primacy to the rights set forth in the Covenant.

66. He was interested in learning how the right to amparo was exercised in practice and whether any actions taken by the Government, or legislation enacted by Parliament, had been declared unconstitutional following an application for amparo. He also inquired how may cases of disappearances or of ill-treatment of detainees had been brought to light, and what action had been taken to deal with them and, with reference to paragraph 45 of the report, under what law the keeping of databases on citizens by public or private bodies was authorized.

67. Paragraph 38 stated that the Constitutional Court consisted of three members of the judiciary, three members of the legislature, and three members of the executive. If that was so, it was difficult to see how respect for the principle of the separation of the executive from the judiciary was ensured. The figures in the tables in paragraph 93 implied that a considerable percentage of the population was not covered by health insurance and had no access to medical services and he wondered what steps the Government intended to take to remedy that situation. Was any action planned to increase the number of women members of the judiciary?

68. Lastly, paragraph 122 of the report stated that applications for habeas corpus were dealt with by mayors. He would like to know, therefore, whether mayors in Ecuador were elected or appointed, and whether there was any machinery for appealing against their decisions in respect of such applications.

69. Mr. SCHEINEN, having noted that Ecuador had recently ratified ILO Convention No. 169, said that the interior of the country was home to eight separate indigenous groups, with a total population of some 500,000. Oil exploitation had had a number of adverse effects on the life of those groups, including deforestation and serious health problems caused by contamination of water supplies by toxic wastes, as well as by infections brought in by outsiders. It had also led to the deterioration of traditional forms of economic life and culture through the disappearance of fish and wildlife, the destruction of rainforest resources, and the loss of crops and domestic animals.

70. He wished to know, therefore, whether any procedures for proper consultation had been introduced in respect of the exploitation of land traditionally occupied by indigenous groups, and whether there were any facilities to enable a proper assessment to be made of their situation from the health, environmental and legal points of view. ILO Convention No. 169 contained a provision to the effect that, even when the State held the rights to subsurface minerals, there should still be full consultation with the inhabitants of the land under which they lay. Were steps being taken to ensure that indigenous groups continued to benefit from their traditional forms of economic life while oil and other subsurface resources were being exploited?

71. With respect to the points made by Ms. Medina Quiroga, he recalled that the Committee had concluded in respect of the reports of certain other States parties that strict prohibition of abortion, even in cases of rape, did raise issues under articles 6 and 7 of the Covenant in that it might affect the right to life by encouraging resort to illegal abortion, and might constitute inhuman or degrading treatment for the woman concerned. Did Ecuador comply with articles 6 and 7 of the Covenant in that regard?

72. There were reportedly a large number of children in Ecuador without name or nationality: could the delegation indicate if any steps were being taken to deal with that problem, so that the Committee could assess whether, article 24, paragraphs 2 and 3, of the Covenant were being complied with?

73. Ms. EVATT said she would appreciate clarification concerning the extent to which illegal abortion contributed to Ecuador's high rate of maternal mortality. She also wondered whether the unusually high rate of suicides among females under the age of 20 revealed in the tables in paragraph 94 of the report were connected with a high rate of unwanted pregnancies.

74. With regard to employment, the exclusion of women from the Stock Exchange seemed curious. She noted that there were very few women in the professions generally, and that equal pay, particularly in the private sector, was far from being achieved. She asked whether there were any laws to

prohibit discrimination against women, and how easy it would be in practice for a woman to bring an action for discrimination. Were there other, less formal complaints procedures which would provide effective remedies?

75. With reference to paragraph 59 of the report, she would like to know whether there were any programmes in place to protect women who were victims of trafficking, and what was being done to amend the Penal Code in that regard.

76. It had been stated that, under the Constitution, the education of children at the elementary and intermediate levels was compulsory but it was unclear what proportion of the children actually achieved those levels of education and whether girls or children in rural areas were at a disadvantage. The Committee was concerned at reports of extensive corporal punishment in the schools, and hoped that action was being taken to remedy that situation.

77. On the question of child labour, she noted that education programmes were provided for urban children working to help support their families, but that many thousands of children working in the rural sector appeared to be deprived of schooling. The report suggested that the situation was worsening, and she would like to know what action was being taken. Lastly, she would like to know what was being done to ensure that refugees were documented and the births of their children registered, and what was the effect of the Suárez Rosero decision on pre-trial detention in narcotics cases.

78. Mr. KRETZMER said that article 9, paragraph 3, of the Covenant provided that it should not be the general rule that persons awaiting trial should be detained in custody. Paragraph 116 of the report stated that a judge could order a person to be remanded in custody "when he considered it necessary" and he wished to know what a judge would regard as sufficient grounds for making such an order, whether the person detained would have the right of appeal and, conversely, whether a judge could refuse to place a person in pre-trial detention on the grounds that prison overcrowding was such that the order would constitute a violation of article 10 of the Covenant.

79. According to the report on Ecuador by the Inter-American Commission on Human Rights, prison officials estimated that most of those held in pre-trial detention would have to wait at least two years before charges were brought against them. Under the new law whereby no one could be detained for more than one third of the maximum possible sentence for the alleged offence, a person could presumably be held for as long as three years if the maximum sentence for his alleged offence was 10 years. Could the delegation provide statistics of the average time spent in pre-trial detention under that new law?

80. Mr. ANDO said, with reference to paragraph 78 of the report, that he would like to know whether the state of emergency in Ecuador notified to the Inter-American Commission on Human Rights had also been notified to the Secretary-General of the United Nations, as required under the Committee's own procedures.

81. In his view, the effects of oil exploitation on indigenous populations related not only to article 27 of the Covenant (the rights of minorities) but

also to article 6 (the right to life). Were those indigenous peoples entitled to compensation for any damage they had suffered, and what legal remedies were available to them to claim such compensation? In addition to being consulted, were they given the opportunity to make their wishes know when plans were being made and decisions taken regarding the exploitation of natural resources, and were they guaranteed a fair share of the resultant benefits?

82. Mr. EL SHAFEI said he welcomed the account given in the report of new legal and political reforms which had led to improved guarantees of human rights. With reference to paragraph 78, he asked how the Constitutional Court differed from the Court of Constitutional Guarantees and whether the latter was the only body entitled to declare or revoke a state of emergency. Could the delegation elaborate on the impact of the legal reforms referred to in paragraph 6 on the country as a whole, and indicate whether, despite those reforms, there was still a backlog of cases in the courts?

83. Lastly, he congratulated Ecuador on its adoption of a National Human Rights Plan in response to the resolution adopted by the Vienna Conference on the subject.

84. Mr. YALDEN said he noted that the National Human Rights Plan, although referred to in the addendum document, had not yet been made available to the Committee.

85. The figures given in the tables contained in paragraph 75 of the report regarding cases of sexual violence revealed a very low conviction rate in relation to the number of complaints made, and he would appreciate clarification. With reference to paragraph 286, he would like to know to what extent the indigenous languages, particularly Quichua, were used in education, business and the conduct of public affairs. Very little was said either in the original report or in the addendum about the participation of indigenous peoples in public life, and he would welcome some more details.

86. Mr. POCAR said he noted that Ecuador's new Constitution provided for derogation from certain of its articles, including those relating to the right to a fair trial and the right of the accused not to be compelled to give evidence against himself, in the event of a national emergency. He wondered why provision for such derogations had been included, especially in the light of the question raised in the Committee's list of issues to be taken up in connection with the report of Ecuador concerning the safeguards and remedies available in a state of emergency. Derogation from such basic principles might be dangerous if an emergency situation were to arise in the future.

The meeting rose at 1 p.m.

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HUMAN RIGHTS COMMITTEE

Sixty-third session

SUMMARY RECORD (PARTIAL)* OF THE 1674th MEETING

Held at the Palais des Nations, Geneva
on Tuesday, 14 July 1998, at 3 p.m.

Chairperson: Ms. CHANET

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* No summary record was prepared for the rest of the meeting.

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GE.98-16879 (E)

The meeting was called to order at 3.05 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Fourth periodic report of Ecuador (CCPR/C/84/Add.6; CCPR/C/63/Q/ECU/1) (continued)

1. At the invitation of the Chairperson, the members of the delegation of Ecuador resumed their places at the Committee table.

2. The CHAIRPERSON invited the delegation of Ecuador to reply to the questions that the members of the Committee had asked orally after hearing the delegation's replies to the questions in part I of the list of issues (CCPR/C/63/Q/ECU/1).

3. Mr. GALLEGOS CHIRIBOGA (Ecuador), replying to the questions on the status of women and the need to change the way of dealing with the problem of gender specificity, said that, in recent decades, considerable efforts had been made in Ecuador to guarantee that women were present in all sectors of the life of the country. Those efforts had been made by civil society and, in particular, by non-governmental organizations, in cooperation with the State, the Government, university institutions and the private sector so that women might assume an increasingly larger share of responsibility. Ecuadorian women played an active role not only in political and social terms, but also in the education and finance sectors, where they held important decision-making posts. Unfortunately, his delegation could not provide any statistics in that regard. Referring to equal pay for equal work, he said that, at least as far as members of the diplomatic corps were concerned, he could affirm that, if a woman had succeeded him in the post he had held previously, she would have received the same salary as him.

4. Ecuador had taken the trouble of defining the problem of violence against women and had adopted specific measures to prevent, eliminate and curb it. What was involved was not only an educational process designed to publicize the Universal Declaration and the Covenant, but also the need to inform Ecuadorians, in public and in private, of the rights and obligations deriving therefrom so that they would learn and adopt the values in question.

5. As to abortion, he recalled that Ecuadorian lawmakers were meeting the demands of Ecuadorian society, which was primarily Roman Catholic, and that the teachings of the Roman Catholic religion had an influence on the country's legislation. Considerable progress had also been made in terms of sex education and responsible parenthood, mainly as a result of the spread of AIDS-related problems. Far-reaching campaigns had been waged in Ecuador to explain the risks involved in unprotected sexual relations with multiple partners and they had been organized under the auspices of international agencies, with the participation of the Ministry of Public Health and other State bodies.

6. In connection with the question of refugees, he said that Ecuador was a country which had always welcomed refugees and asylum seekers, a matter on which the Ministry of Foreign Affairs was working in cooperation with civil

society and non-governmental organizations, including the Ecuadorian Bishops' Conference, which had a broad programme for issuing documents to refugees covered by the United Nations Office of the High Commissioner for Refugees. In that connection, it should also be noted that, in the Ecuadorian educational system, instruction was given on the human rights provided for in regional and international instruments, as well as on humanitarian law provisions, and that Ecuador was cooperating with the International Committee of the Red Cross to train officials in the aspects of humanitarian law with a bearing on the Geneva protocols, the laws of war and the right of asylum. Major programmes had been set up with UNHCR and had served as models for other Latin American countries. Ecuador had made considerable efforts in the past year to register all the refugees in its territory, who were placed on a list and issued with identity documents.

7. With regard to illegal immigration, it should be noted that Ecuador had very few illegal immigrants from neighbouring countries and that they had a much better status than their Ecuadorian counterparts who had emigrated to other countries. In Ecuador, illegal immigrants had the right to declare their children and register them in any civil registry office. That was a voluntary and individual act by the parents, who thus enabled their children to have Ecuadorian nationality. In many cases, however, immigrants regarded their situation as temporary and wanted to return home. Within its limits, Ecuador had made a great effort to accept a large number of refugees from the region.

8. A question had been asked about what was stated in paragraph 84 of the report (CCPR/C/84/Add.6) on Ecuador's ratification of the Convention on the Prevention and Punishment of the Crime of Genocide; it must be understood that Ecuador had always condemned genocide and the practice of ethnic cleansing, which was going on in Europe at present, especially in the Balkans. Ecuador had never experienced that problem.

9. The Commission for Truth and Justice had been established on the initiative of the Bucaram Government and had then been replaced by other mechanisms as a means of solving the problems related to the Restrepo brothers case and the Benavides case, the only cases of enforced disappearance that had taken place in Ecuador. Responsibility for that type of problem at the national level had subsequently been entrusted to the National Council of the Judiciary. In the case of the Restrepo brothers, the Ecuadorian State had tried to solve the problem with the Restrepo family by providing compensation even before the case had been referred to the Inter-American Commission on Human Rights. Ecuador was apparently the only Latin American country that had decided to compensate victims of human rights violations.

10. Ecuador lacked overall statistics on prisons, but studies had been carried out with the assistance of non-governmental organizations. The noticeable change in the size of the prison population was apparently the result of the amendment of the Drugs Act. Ecuador was neither a producer nor a large consumer of drugs, but other countries in the region were. In a spirit of cooperation, Ecuador had therefore taken criminal law measures to halt the drug traffic and the Ecuadorian courts had handed down more convictions and penalties than usual for the use and possession of drugs. Ecuador was also trying to reduce the prison population.

11. Reference had been made to the difference between the terms "multicultural" and "pluri-ethnic" used in the Constitution. A far-reaching discussion had been held in the Ecuadorian National Assembly on the difference between "pluri-national", "multicultural" and "pluri-ethnic". Some political movements, especially the Pachakutik (New Country) Party, whose members were primarily indigenous peoples belonging to different communities and which had a great influence in Ecuador, would like the new Constitution to declare Ecuador a pluri-national country. The Constituent Assembly had accepted the idea of a "multicultural and pluri-ethnic" country, but had not agreed to the term "multinational" because "pluri-nationality", which implied national independence and autonomy, was not conceivable in a country as small as Ecuador, where the indigenous peoples' land would, ultimately, be the entire territory. Quechua-speaking groups were to be found throughout the Andean region and on the Pacific coast, for example, and it was therefore impossible to set aside particular territorial reserves for Ecuador's indigenous peoples, as was done in other countries.

12. Ecuador's indigenous peoples had enormous political influence, not only because they took part in the process of consultation, but also because they could literally paralyse the country when they considered that their rights had been violated. Strikes organized by indigenous peoples were usually peaceful and had helped bring about the political changes that had taken place in the country in recent years. Although he could not quote precise figures, he stressed that a movement or a demonstration which mobilized more than 2 or 3 million persons in a country with a population of 11 million showed to what extent civil society played not only an important, but also a decisive, role in the direction the country's policy took.

13. His delegation had been asked about the indigenous peoples and their way of dealing with oil drilling activities. Drilling for oil had been going on in the Amazon region since about the 1970s and it had given rise to serious problems in the country from the point of view of respect for the environment and for human rights. Thanks, in particular, to communication and negotiation with the indigenous communities in the region, Ecuador made sure that the provisions of contracts signed with oil and service companies protected the environmental balance. On many occasions, those communities and non-governmental organizations had drawn attention to the oil companies' failure to abide by contractual provisions. The peoples concerned were usually few in number and they were members of nomadic Amazon communities whose culture was being destroyed by the invasion of modern life and the many related service activities that went together with oil drilling. In that connection, he recalled that Ecuador's policy had never been to isolate indigenous peoples and shut them up in reserves; its guiding principle had always been that individual and community freedom must be respected.

14. He also stressed that respect for indigenous culture depended on the educational system, which guaranteed language teaching and multilingualism, as provided for in the Constitution. Recently, political propaganda campaigns had been waged in Quechua. Unfortunately, the recognition of multilingual education was now facing funding constraints.

15. With regard to land ownership, the Constitution of Ecuador provided that the country's natural resources belonged to the State and to society as a whole. The resources of the subsoil were therefore assigned by means of concessions granted by the State. In some cases, indigenous communities were allowed to share in the use of resources covered by concessions.

16. The problem of the immigration of Colombian women to Ecuador was the result of various factors and had consequences which required the country to take measures to curb such immigration. As far as the training of girls was concerned, moreover, he recalled that education was compulsory at the elementary and secondary levels in rural and urban areas for boys and girls alike. The situation was often better in rural areas because, in the last 25 years, the rural exodus had increased sharply and towns had been unable to absorb those new marginal populations and to provide them with services such as electricity, water, etc. An enormous effort had been made to set up programmes, especially for indigenous groups, that were suited to the various population groups in a country which had three very separate regions, the Pacific coast region, the Andean region and the Amazon region, all with different climates and seasons that must be taken into account.

17. As to pre-trial detention, the problem that arose in Ecuador resulted from the interpretation of the provisions of the law, with the limitations it imposed, and from the practices of judges. The authorities had therefore been trying not only to train judges, but also to give the judiciary total independence by granting the National Council of the Judiciary broad autonomy to enable it to solve the problems stemming from slowness of procedures. New mechanisms had to be set up for that purpose and Ecuador had therefore concluded an agreement with the World Bank for several million dollars to finance a project designed to support the Supreme Court of Justice and the judiciary.

18. When a state of emergency was declared, rights such as that of freedom of movement were partially suspended, but not revoked. Ecuador had been through three wars in recent times and had had to cope with serious disasters, but, whenever a state of emergency had been proclaimed, it had been lifted rapidly. Before the Constitution had been amended, the Court of Constitutional Guarantees had been a kind of multi-personal ombudsman to which Ecuadorians could submit complaints of violations of their constitutional rights. With the establishment of the Office of the Ombudsman, the Court of Constitutional Guarantees had changed, but Ecuadorians could still apply to the authorities for compensation when they considered that their human rights had been violated. Reference had also been made to the slowness of judicial proceedings and the backlog of pending cases, but, since the amendment of the Penal Code, Ecuador had made great efforts to eliminate and reduce penalties and allow persons sentenced to light penalties to remain at liberty.

19. The question of indigenous education had been raised, particularly with regard to the largest group, which was Quechua-speaking. It had been asked whether instruction was still given in both languages. In actual fact, Quechua was spoken by many Ecuadorians, not only by persons belonging to that indigenous group. Although there were few statistics in that regard, it could be said that the indigenous peoples played a very active role in Ecuadorian political life, not only at the national level, but also at the international

level, since the Confederation of Indigenous Nationalities of Ecuador (CONAIE) had a representative in the Working Group on Indigenous Peoples of the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

20. Mr. GUZMAN (Ecuador), replying to the questions that had been asked about possible conflicts between the Constitution and international treaties and which one prevailed, said that such a case could not arise in connection with human rights, as shown by the principles embodied in the Constitution in force, as well as in the new Constitution which had just been adopted by the Constituent Assembly. According to article 18 of the Constitution in force, the State guaranteed all men and women under its jurisdiction the enjoyment and full and free exercise of the civil, political, economic, social and cultural rights provided for in the declarations, covenants, agreements and other international instruments in force. Consequently, all of the rights and guarantees proclaimed by the International Covenants on Human Rights, as well as by the declarations on those rights, were incorporated not only in general law, but also in the Constitution of Ecuador.

21. The implementation of that principle was provided for in article 21 of the Constitution, according to which the rights and guarantees embodied in the Constitution (i.e. those included in the International Covenants) were fully applicable and could be invoked in any court or before any judge or government authority. Moreover, article 19 of the Constitution provided that the highest duty of the State was to respect and guarantee respect for the human rights guaranteed by the Constitution, including all of the rights provided for in the International Covenants. Article 16 of the new Constitution adopted a few weeks previously further strengthened that statement, while article 17 reaffirmed that the State guaranteed all inhabitants, without discrimination, the exercise and full and free enjoyment of the rights provided for in the Constitution and in declarations, covenants, agreements and other international instruments. The State had an obligation to adopt programmes to give effect to the exercise of the rights in question. The Constitution also provided that the interpretation that was most favourable to full respect for constitutional rights and guarantees would prevail. No authority could place any prior conditions on the exercise of those rights that had not been established in the Constitution or the law. The laws could not restrict the exercise of constitutional rights and guarantees. As could be seen, the Constitution of Ecuador guaranteed very broad protection of the human rights provided for in the Covenants.

22. Such protection of human rights was reflected in Ecuadorian legislation, particularly in the form of the right of amparo. According to article 31 of the Constitution, any person without exception could apply to the organs of the judiciary (which was independent and autonomous) designated by law to request the adoption of urgent measures in order to halt, prevent the commission or immediately remedy the consequences of an unlawful act by a public authority which violated any of the constitutional rights and might cause imminent, serious and irreparable harm. The courts had an obligation to rule on such an application and could thus not refuse to do so, even on official holidays. The action in question was immediate. The Constitution specifically defined such action: the judge immediately summoned the parties, who were heard in public within 24 hours and, if he found that the application to be well founded, he ordered the suspension of any current or imminent

action which might result in a violation of constitutional rights. Within the following 48 hours, the judge handed down his decision, to which immediate effect must be given. The suspension order handed down by the judge could be appealed to the Constitutional Court. There was also a more detailed set of regulations on the implementation of the right of amparo, which was a very important remedy, in the Act on the Constitutional Court.

23. One of the special forms of protection of human rights was the remedy of habeas corpus. The Constitution thus clearly stated that any person who considered that he had been unlawfully deprived of his liberty could apply for a remedy of habeas corpus. He exercised that right before the mayor, who was, according to a tradition dating back to Spanish law, regarded as the closest representative of the community and the will of the citizens. The mayor then immediately ordered that the person concerned should be brought before him and that the detention order should be submitted to him. Having taken cognizance of the facts, the mayor ordered the prisoner's immediate release if he had not been brought forward, if the order had not been shown to him or had not been drawn up according to the required legal procedures or if the remedy was justified as to the merits. Any official who did not comply with that decision was immediately removed from his post. After having released the prisoner, however, an official who had been dismissed could challenge the decision in the competent courts. The remedy of habeas corpus was widely used and was an effective means of securing the release of persons who had been unfairly detained. There was also the remedy of habeas data, which recognized the right of any person to have access to information about himself held by the authorities or by private individuals and to know what use was being made of such data. Similarly, any person could request the competent official or judge to update, rectify, eliminate or cancel information which was incorrect or unlawfully affected his rights. The only restriction which was provided for and which was strictly regulated by the Constitutional Court related to information that had to be kept secret for reasons of national security.

24. The information that indigenous groups lived in the most miserable economic and social conditions was an abusive generalization. Having served for several years as Executive Director of the national body responsible for the development of indigenous social groups, he had had the opportunity to see that, in many regions, the wealthiest groups were indigenous, while the poorest were white and mixed-race peasants. In reply to information on the professional marginalization of women, he said that most of the traders on the Quito Stock Exchange, and those who were the most efficient, were women.

25. The CHAIRPERSON invited the delegation of Ecuador to refer rapidly, in view of the lack of time, to part II of the list of issues (CCPR/C/63/Q/ECU/1).

26. Mr. GALLEGOS CHIRIBOGA (Ecuador) said that most of the information requested had been provided in the replies to the questions asked in part I of the list of issues. He would simply add that, following the reform which had started in 1997, Supreme Court judges were now appointed for life and the country had a National Council of the Judiciary, an autonomous body in charge of the administration of the system of justice. The aim of the Ecuadorian State was thus to promote the impartiality, effectiveness and transparency of the judicial power. With regard to paragraph 14 of the list of issues, he

explained that military courts, which were subject to very specific rules and codes, had been established to try crimes committed by members of the military and the police in the exercise of their functions. However, members of the military and the police who had committed ordinary crimes were tried by ordinary courts. There had been various problems with the functioning of the military courts, but measures had been taken to solve them.

27. With regard to paragraph 15 of the list of issues, he referred the members of the Committee to the addendum to the report distributed in the meeting room and, in particular, to pages 27, 28, 32 and 33 on the right to a fair trial and to page 30 on crimes committed by minors. In any event, Ecuadorian social law was designed primarily to establish machinery to guarantee the right to a fair trial. As to paragraph 16 on national human rights institutions, Ecuador had decided about two years previously to establish the Ombudsman's Office, on the basis of a recent tradition in Latin America and the Scandinavian experience. That measure was a definite step forward, particularly as the State had given guarantees that the Ombudsman's Office would operate effectively.

28. With regard to paragraphs 17 and 18 of the list of issues on freedom of expression and the right to privacy, he referred the Committee to pages 36 and 37 of the addendum and pointed out that freedom of expression was one of the characteristics of Ecuadorian democracy and that many newspapers were distributed free of charge throughout the country. During the elections which had taken place on 12 July, moreover, information from press agencies had been widely used to make forecasts of trends, thereby demonstrating the importance, credibility and prestige of the Ecuadorian press. The right to privacy was fully observed.

29. The state of emergency referred to in paragraph 19 of the list of issues related to the 1995 conflict between Ecuador and Peru. Its proclamation had, of course, initially been notified only to the Inter-American Commission on Human Rights, but, subsequently, all United Nations bodies, including the Committee, and all regional organizations had been informed of developments in the situation and the settlement of the dispute. With regard to paragraph 20 on the dissemination of information on the rights provided for in the Covenant, the Minister for Foreign Affairs, who was the former United Nations High Commissioner for Human Rights, had launched a national plan, together with specific measures to strengthen the implementation of human rights in the country. Considerable progress had been made in that area, particularly with regard to the integration of human rights teaching in the training of members of the military and the police. Similar measures were to be taken as part of the training of judges and lawyers. The press and the television were involved in programmes to promote human rights, especially as part of the fiftieth anniversary of the Universal Declaration of Human Rights. Those actions were being taken not only by the executive, but also by the legislature, as demonstrated by the seminar which had been organized by the Human Rights Commission of the National Congress and which had been attended by experts from 180 non-governmental organizations.

30. The CHAIRPERSON invited the members of the Committee to ask additional questions and request further explanations.

31. Mrs. MEDINA QUIROGA said that the establishment of the National Council of the Judiciary, the depoliticization of the system of justice and the compensation of victims of violations of human rights were definite steps forward and novelties in Latin America. However, the National Plan for Human Rights, referred to on pages 32 and 35 of the addendum to the report, might not have enough weight under the law to be fully applicable. Was the decriminalization of homosexuality an ad hoc or a final measure? Did private mediation or arbitral courts already exist or were they going to be set up during the four-year period referred to on page 32 of the addendum to the report?

32. She had been surprised to read on page 33 of the addendum to the report that that basic principle of the presumption of innocence was recognized by the majority of judges. What did that mean? Referring to free legal assistance, the report of the Inter-American Commission on Human Rights indicated that there were four defence counsel in Quito and four in Guayaquil, but that was obviously not enough to meet the needs of defendants who had no financial resources. Had measures been taken to remedy that situation, particularly in view of the enormous backlog in the handling of cases? She welcomed the Ecuadorian Government's willingness to take account of the Committee's comments on the José Luis Garcia Fuenzalida and Jorge Villacrès Ortega cases.

33. Mr. YALDEN noted that paragraph 32 of the fourth report stated that the Congress had established the Ad Hoc Commission on Human Rights to analyse and verify complaints of human rights violations, determine responsibility in such cases and, in general, promote the defence of the fundamental rights of Ecuadorian citizens. He wished to know whether that Commission still existed and, if so, what its powers were and what results it had achieved. He also asked whether the Commission for Truth and Justice, which apparently no longer existed, had been or would be replaced by another body of the same kind.

34. He wished to have some information on the announced appointment of a new human rights ombudsman, following the resignation of the preceding ombudsman, and about the arrangements being made for such an appointment. Lastly, he asked what bodies Ecuadorian citizens could apply to if they considered that their fundamental rights had been violated.

35. Mr. BHAGWATI said that he associated himself with the concerns Mrs. Medina Quiroga had expressed about legal aid and asked whether such assistance was available in Ecuador and, if so, whether it was granted both in criminal and in civil cases. If it did not exist, were there plans to set up a system to help defendants who had no financial resources?

36. Like Mr. Yalden, he would also like to have details on the powers and role of the Ad Hoc Commission on Human Rights and to know, for example, whether private individuals could apply directly to it if they considered that their fundamental rights had been violated.

37. With regard to the National Council of the Judiciary, he asked whether the new bill on the appointment of judges had been adopted and, if so, what

provisions of that Act were applicable. Were there provisions designed to protect judges from attacks and violence to which they might be subject because of decisions they had taken during court proceedings?

38. Mr. GALLEGOS CHIRIBOGA (Ecuador) said that the National Plan for Human Rights, which had been officially adopted in November 1997, had been drafted by the Government in cooperation with the Inter-Agency Committee and civil society as a whole. It had compulsory legal value and great progress had already been made in its implementation.

39. The Constitutional Court was open to any person or persons who, individually or collectively, challenged the validity of a national law adopted by Congress. If the Court found a law to be unconstitutional, the law could be repealed. That was a remedy available to citizens which went much further than the traditional remedy of amparo. However, it should be stressed that the Constitution of Ecuador provided that any Ecuadorian citizen could apply to any authority to assert his rights and that he did not necessarily have to apply to the Constitutional Court, the Supreme Court or the Ombudsman for that purpose.

40. The function of characterizing offences was carried out by the district judge, whose decision was upheld by the competent judicial organ. In that connection, the principle of the presumption of innocence was the basis of all judicial proceedings.

41. In reply to Mr. Yalden's questions, he said that, as necessary, the Congress could set up standing or ad hoc commissions to deal with particular matters. It had thus set up the Ad Hoc Commission on Human Rights not only to monitor respect for individual rights, but also to propose constitutional amendments in areas relating to human rights. Moreover, in-depth investigations were being conducted in connection with all of the cases of disappearances and atrocities that had been committed. Judges and magistrates did not benefit from any special measures of protection in the exercise of their functions, but there had been few cases in which they had been subjected to violence because of their profession.

42. Mr. GUZMAN (Ecuador), replying to the questions on the possibility of indigenous groups' representation in Congress, said that those groups varied considerably in terms of size: they could have 150, 700 or 5,000 members scattered among many districts in each province. The representatives of those groups should therefore be elected at the district level, but that would require a radical change in the electoral system that would be difficult to make at the present time.

43. Mr. BHAGWATI asked how judges of the Supreme Court were appointed: were they elected by the Congress or by the National Council of the Judiciary?

44. Mr. GUZMAN (Ecuador) said that judges of the Supreme Court of Justice were appointed by the judiciary and that the National Council of the Judiciary exercised exclusively administrative functions.

45. The CHAIRPERSON thanked the delegation for submitting the fourth periodic report of Ecuador. The human rights situation in the country was

developing favourably and that was to be welcomed. There were, however, still some concerns. For example, although women were equal to men under the law, equality did not seem to be reflected in real life, primarily in education, which was essential. Moreover, even though that question did not come directly within the Committee's jurisdiction under the Covenant, she was concerned about the way in which abortion was regarded in the Ecuadorian social context. She also noted that 70 per cent of prisoners were awaiting trial, and that was obviously contrary to the provisions of article 9 of the Covenant, since pre-trial detention should be a guarantee that the prisoner would be brought before the courts, not a penalty in itself. Apparently, the Government of Ecuador was basically trying to integrate and assimilate the many linguistic and ethnic minorities and indigenous peoples rather than allowing them to take their place in society in accordance with article 27 of the Covenant.

46. Mr. GALLEGOS CHIRIBOGA (Ecuador) thanked the members of the Committee for their comments and understanding of Educador's human rights problems as well as for their contribution to efforts to find appropriate solutions. He assured the Committee that Ecuador would continue in future to make progress in strengthening democracy.

47. The CHAIRPERSON said that the Committee had completed its consideration of the fourth periodic report of Ecuador.

48. The delegation of Ecuador withdrew.

The discussion covered in the summary record ended at 4.55 p.m.